1949. **File No** Molasses II/49 (R)

P4F Legal Deptt.

B BRANCH

Subject:— Rules under the B'bay Molasses Act 1947

File No. Molasses II/49 (R)

Legal Department.

A revised draft notification in place of the draft notification on page 39 ante is sent herewith.

2. Sub-section (2) of section 5 of the Bombay Molasses Act, 1947, contemplates the grant of licence for the sale or possession of molasses. Under this section it would be competent to the Collector either to grant a licence ~~of~~ for possession or for sale subject to such conditions and restrictions as the Provincial Government may direct. The conditions and restrictions to which a licence for possession may be granted under this section cannot, however , convert the licence for possession into a licence for sale. Rule 3(1) as proposed by Revenue Department entitles a licensee to get a licence for possession of Molasses produced as a by-product in the process of manufacture of sugar or gur only if such Molasses are intended for sale to persons holding licences etc. This condition in effect, requires the licensee to sell the Molasses and is likely to be challenged on the ground that the licence is one for sale and not for possession. Revenue Department draft rule 3(1), is, therefore, ultra vires the Bombay Molasses Act, 1947. It has, therefore, been suitably recast.

3. Since the licence forms were drawn up on the basis of the proposed amendment of rule 3, Revenue Department is requested to revise the licence forms in the light of the revised draft rule 3.

4. The Revenue Department draft order on page 41 provides inter alia for granting licences for possession and sale to persons in industrial areas. It does not appear that the expression persons in industrial areas would be a class of persons within the meaning of section 20(c) of the Act. The word 'class' means a definitely ascertainable body of individuals; not an indeterminate body or group having no clearly defined and non-variable characteristics or criteria by which they may be distinguished from any other body or group.

Persons in industrial areas would not be a definitely ascertainable body of individuals. Moreover, the expression "industrial area" is itself vague and indefinite. Revenue Department is therefore requested to specify the class of persons more clearly for the purposes of the proposed draft Order on page 41 ante before it is scrutinized.

Sd/- J.R.Dhurandar.

13-5
Additional Secretary to Government.

U.R. to R.D., No. 6331, dated the 13th May 1949.

VRD. /2-6
4c.

Revenue Department,
Bombay Castle, May 1949.

Bombay Molasses Act, 1947. No. .- The following draft of a notification which it is proposed to issue in exercise of the powers conferred by section 22 of the Bombay Molasses Act, 1947, ~~1947~~ (Bom. XXX of 1947), is published as required by the said section 22 for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration by the Government of Bombay on or after 1949.

2. Any objections or suggestions which may received by the Secretary to Government, Revenue Department, from any personwith respect to the said draft on or before the said date will be considered by the Government of Bombay.

3. Draft Notification.

No. - In exercise of the powerem conferred by section 22 of the Bombay Molasses Act, 1947 (Bom. XXX of 1947), the Government of Bombay is pleased to amend the Bombay Molasses Rules, 1947 , as follows, namely :-

In the Said rules :-

1. For rule 3, the following shall be substituted, namely:-

"3. A license for the possession of molasses may be granted to any person-

(i) who produces molasses as a by-product inthe gur the process of manufacture of sugar or gur from sugar cane in a sugar or gur factory;

(ii) who intends to have molasses in his possession for sale to holders of licenses or permits granted under the Act or the Rules thereunder; or

(iii) who intends to use molasses for distillation of spirit in a distillery licensed under the Bombay Abkari Act, 1878; or

(iv) who intends to use molasses for bona-fide domestic, agricultural, industrial scientific, educational or medicinal purposes. "

2. In rule 4, -

(i) in clause (ii) for the words "kept for use or sale " the word "stored" shall be substituted;

(ii) for clause (iii) the following shall be substituted, namely:-

"(iii) The quantity of molasses and the purpose for which license is required,"

In rule 5, for clauses (ii) and (iii) th following shall be substituted, namely :-

"(ii) where license is required under clause (i) of rule 3, which the licensee may require for sale during a year;

(iii) where a license is required under clause (ii) of rule 3, which the licensee may require for sale during any year;

(iv) where licence is required under clause(iii) of rule 3, which the licencee may use during any one year;

(v) where licence is required under clause (iv) of rule 3, which the licensee may use during any one months. "

By order of the Governor of Bombay

Secretary to G